

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2008-0710-PWS-E   **TCEQ ID:** RN101442648   **CASE NO.:** 35807  
**RESPONDENT NAME:** Axtell Water Supply Corporation

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input checked="" type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Axtell WSC, 207 North 5<sup>th</sup> Street, Axtell, McLennan County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b>   <input checked="" type="checkbox"/> <b>Yes</b>     <input type="checkbox"/> <b>No</b></p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 18, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>     <b>TCEQ Attorney/SEP Coordinator:</b> None     <b>TCEQ Enforcement Coordinator:</b> Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4033; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171     <b>Respondent:</b> Mr. Chuck White, President, Axtell Water Supply Corporation, P.O. Box 180, Axtell, Texas 76624     <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> April 14, 2008</p> <p><b>Date of NOE Relating to this Case:</b> April 30, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v)].</p> <p>2) Failure to provide a pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to provide a 16-mesh or finer corrosion-resistant screen over the opening of the upward facing fans at the two forced air cooling towers [30 TEX. ADMIN. CODE § 290.42(b)(2)(C)].</p>	<p><b>Total Assessed:</b> \$687</p> <p><b>Total Deferred:</b> \$137  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (DUE) to General Revenue:</b> \$150 (remaining \$400 due in four monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that on May 23, 2008, the Respondent submitted photos demonstrating that a 16-mesh or finer corrosion screen insert was provided over the opening of the upward facing fans on the two forced air cooling towers.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 90 days after the effective date of this Agreed Order, provide emergency power that will deliver water at a minimum of 0.35 gpm per connection in the event of the loss of normal power supply;</p> <p>b) Within 105 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.;</p> <p>c) Within 180 days after the effective date of this Agreed Order, provide a pressure tank capacity of 20 gallons for the primary pressure plane; and</p> <p>d) Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.</p>

Additional ID No(s): PWS No. 1550016



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision March 8, 2008

<b>DATES</b>	<b>Assigned</b>	28-Apr-2008	<b>Screening</b>	28-Apr-2008	<b>EPA Due</b>	
	<b>PCW</b>	28-Apr-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Axtell Water Supply Corporation
<b>Reg. Ent. Ref. No.</b>	RN101442648
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	35807
<b>Docket No.</b>	2008-0710-PWS-E
<b>Media Program(s)</b>	Public Water Supply
<b>Multi-Media</b>	
<b>Admin. Penalty \$ Limit Minimum</b>	\$50
<b>Maximum</b>	\$1,000
<b>No. of Violations</b>	3
<b>Order Type</b>	1660
<b>Enf. Coordinator</b>	Epifanio Villarreal
<b>EC's Team</b>	Enforcement Team 2

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$550
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	25% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$137
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**Notes**

The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action and 10 prior dissimilar NOV's.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes**

The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	\$1,109	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$10,100	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$687
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$687
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$687
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<b>DEFERRAL</b>	20%	Reduction	<b>Adjustment</b>	-\$137
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$550
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Screening Date 28-Apr-2008

Docket No. 2008-0710-PWS-E

PCW

Respondent Axtell Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 35807

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101442648

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action and 10 prior dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

<b>Screening Date</b> 28-Apr-2008 <b>Respondent</b> Axtell Water Supply Corporation <b>Case ID No.</b> 35807 <b>Reg. Ent. Reference No.</b> RN101442648 <b>Media [Statute]</b> Public Water Supply <b>Enf. Coordinator</b> Epifanio Villarreal <b>Violation Number</b> 1	<b>Docket No.</b> 2008-0710-PWS-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision March 8, 2008</i>																				
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 290.45(b)(1)(D)(v)																					
<b>Violation Description</b> Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply. Specifically, at the time of the record review, the investigator noted that the Respondent does not have an emergency power source.																					
<b>Base Penalty</b> \$1,000																					
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 25%;">Major</th> <th style="width: 25%;">Moderate</th> <th style="width: 25%;">Minor</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td><b>Release</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td>x</td> <td></td> <td></td> <td><b>Percent</b> 25%</td> </tr> </tbody> </table>		Major	Moderate	Minor		<b>Release</b>					Actual					Potential	x			<b>Percent</b> 25%
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<b>&gt;&gt; Programmatic Matrix</b>																					
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Falsification	Major	Moderate	Minor																		
				<b>Percent</b> 0%																	
Matrix Notes	Without an emergency power source, customers of the system could experience water shortages or outages in the event of a power failure. As a result, customers could be exposed to a significant amount of pollutants that exceed levels protective of human health.																				
<b>Adjustment</b> \$750																					
\$250																					
<b>Violation Events</b>																					
<table style="width: 100%;"> <tr> <td style="width: 40%;">Number of Violation Events</td> <td style="width: 10%; text-align: center;">1</td> <td style="width: 10%; text-align: center;">14</td> <td style="width: 40%;">Number of violation days</td> </tr> </table>		Number of Violation Events	1	14	Number of violation days																
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mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td>x</td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </tbody> </table>	daily		monthly	x	quarterly		semiannual		annual		single event									
daily																					
monthly	x																				
quarterly																					
semiannual																					
annual																					
single event																					
<b>Violation Base Penalty</b> \$250																					
One monthly event is recommended from the date of the record review, April 14, 2008, to the date of screening, April 28, 2008.																					
<b>Economic Benefit (EB) for this violation</b>																					
<b>Statutory Limit Test</b>																					
<b>Estimated EB Amount</b> \$508	<b>Violation Final Penalty Total</b> \$312																				
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$312																					

## Economic Benefit Worksheet

**Respondent** Axtell Water Supply Corporation  
**Case ID No.** 35807  
**Reg. Ent. Reference No.** RN101442648  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	18-Sep-2007	1-Mar-2009	1.5	\$24	\$484	\$508
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide adequate emergency power, calculated from the date of the initial investigation documenting the violation to the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$508



<b>Screening Date</b> 28-Apr-2008	<b>Docket No.</b> 2008-0710-PWS-E	<b>PCW</b>
<b>Respondent</b> Axtell Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35807	<small>PCW Revision March 8, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101442648		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Epifanio Villarreal		
<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)	
<b>Violation Description</b>	<p>Failed to provide a pressure tank capacity of 20 gallons per connection. With 483 service connections, the Respondent must provide a minimum pressure tank capacity of 9,660 gallons for the primary pressure plane. However, it was noted that the Respondent currently provides 7,000 gallons of pressure tank capacity which is 28% deficient.</p>	
<b>Base Penalty</b>		\$1,000

**>> Environmental, Property and Human Health Matrix**

	<b>Release</b>	<b>Harm</b>			
		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	
					<b>Percent</b> <input type="text" value="10%"/>

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes**  
 Without sufficient pressure tank capacity, the system's ability to provide a safe and adequate supply of water to the customers could be impaired and could expose customers to a significant amount of contaminants that would not exceed levels protective of human health.

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="14"/>	Number of violation days
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	daily	<input type="text"/>	
	monthly	<input type="text"/>	
mark only one with an x	quarterly	x	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

One quarterly event is recommended from the date of the record review, April 14, 2008, to the date of screening, April 28, 2008.

**Violation Base Penalty**

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$596"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$125"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$125"/>	

## Economic Benefit Worksheet

**Respondent:** Axtell Water Supply Corporation  
**Case ID No.** 35807  
**Reg. Ent. Reference No.** RN101442648  
**Media:** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	18-Sep-2007	1-Jun-2009	1.7	\$28	\$568	\$596
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide a pressure tank capacity of a minimum of 20 gallons per connection, calculated from the date of the initial investigation documenting the violation to the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$596



<b>Screening Date</b> 28-Apr-2008		<b>Docket No.</b> 2008-0710-PWS-E		<b>PCW</b>	
<b>Respondent</b> Axtell Water Supply Corporation				<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35807				<i>PCW Revision March 8, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101442648					
<b>Media [Statute]</b> Public Water Supply					
<b>Enf. Coordinator</b> Epifanio Villarreal					
<b>Violation Number</b>		<input type="text" value="3"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 290.42(b)(2)(C)"/>			
<b>Violation Description</b>		<input type="text" value="Failed to provide a 16-mesh or finer corrosion-resistant screen over the opening of the upward facing fans at the two forced air cooling towers."/>			
				<b>Base Penalty</b> <input type="text" value="\$1,000"/>	

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>

**>> Programmatic Matrix**

<b>Falsification</b>				
<b>Major</b>	<b>Moderate</b>	<b>Minor</b>		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
			<b>Percent</b> <input type="text" value="0%"/>	

**Matrix Notes**

**Adjustment**

**Violation Events**

<b>Number of Violation Events</b> <input type="text" value="2"/>		<input type="text" value="14"/> <b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	x	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
<b>Violation Base Penalty</b> <input type="text" value="\$200"/>			

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$5"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$250"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$250"/>

## Economic Benefit Worksheet

Respondent: Axtell Water Supply Corporation  
 Case ID No: 35807  
 Reg. Ent. Reference No: RN101442648  
 Media: Public Water Supply  
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment	\$100	14-Sep-2007	23-May-2008	0.7	\$0	\$5	\$5
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide the cooling towers' fan openings with screens, calculated from the date of the the initial investigation documenting the violation to the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5

# Compliance History

Customer/Respondent/Owner-Operator:	CN600636823	Axtell Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101442648	AXTELL WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1550016
	WATER LICENSING	LICENSE		1550016
Location:	207 N. 5TH STREET, AXTELL, MCLENNAN COUNTY			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	April 28, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 28, 2003 to April 28, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Epi Villarreal		Phone:	210-403-4033

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 05/05/2003 (35500)
- 2 09/30/2003 (27303)
- 3 01/08/2007 (598924)
- 4 03/01/2007 (599162)
- 5 05/21/2007 (652430)
- 6 05/21/2007 (599166)
- 7 08/09/2007 (652636)
- 8 08/09/2007 (599167)
- 9 10/19/2007 (594336)
- 10 11/12/2007 (652991)
- 11 11/13/2007 (600560)
- 12 12/12/2007 (610880)
- 13 01/31/2008 (652009)
- 14 02/26/2008 (616963)
- 15 04/25/2008 (646284)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/05/2003 (35500)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide a concrete sealing block that extends at least 3 feet from the exterior well casing in all directions.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
Description: Failure to provide an overflow pipe flap valve assembly on the standpipe with a good mechanical seal when closed.

Date: 08/14/2006 (489412)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain all distribution system lines in a watertight condition.

Date: 01/08/2007 (598924)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for arsenic during the third quarter of 2006.

Date: 03/01/2007 (599162)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for arsenic during the fourth quarter of 2006.

Date: 05/21/2007 (652430)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)  
Description: ARSENIC

Date: 05/21/2007 (599166)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
5A THSC Chapter 341, SubChapter A 341.0315(b)  
Description: Violated the maximum contaminant level for arsenic during the first quarter of 2007.

Date: 08/09/2007 (652636)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)  
Description: ARSENIC

Date: 08/09/2007 (599167)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for arsenic during the second quarter of 2007.

Date: 10/15/2007 (594336)

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v)		
Description:	Failure to provide emergency power.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)		
Description:	Failure to provide adequate pressure tank capacity.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(3)		
Description:	Failure to create a proper air gap between a receiving tank and a filling outlet hose of an overhead bulk water dispensing station.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(b)(2)(C)		
Description:	Failure to protect the cooling tower fan opening from potential contaminants.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to provide a plant operations manual.		

Date: 11/12/2007 (652991)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)		
Description:	ARSENIC		

Date: 01/31/2008 (652009)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)		
Description:	ARSENIC		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AXTELL WATER SUPPLY  
CORPORATION  
RN101442648

§ BEFORE THE  
§  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0710-PWS-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Axtell Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 207 North 5<sup>th</sup> Street, Axtell, McLennan County, Texas (the "Facility") that has approximately 483 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 5, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Six Hundred Eighty-Seven Dollars (\$687) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Fifty Dollars (\$150) of the administrative penalty and One Hundred Thirty-Seven Dollars (\$137) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely



and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Hundred Dollars (\$400) of the administrative penalty shall be payable in four monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that on May 23, 2008, the Respondent submitted photos demonstrating that a 16-mesh or finer corrosion screen insert was provided over the opening of the upward facing fans on the two forced air cooling towers.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v), as documented during a record review conducted on April 14, 2008.



2. Failed to provide a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on April 14, 2008.
3. Failed to provide a 16-mesh or finer corrosion-resistant screen over the opening of the upward facing fans at the two forced air cooling towers, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(2)(C), as documented during a record review conducted on April 14, 2008.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Axtell Water Supply Corporation, Docket No. 2008-0710-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 90 days after the effective date of this Agreed Order, provide emergency power that will deliver water at a minimum of 0.35 gpm per connection in the event of the loss of normal power supply, in accordance with 30 TEX. ADMIN. CODE § 290.45;
  - b. Within 105 days of the after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.d, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a;
  - c. Within 180 days after the effective date of this Agreed Order, provide a pressure tank capacity of 20 gallons for the primary pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
  - d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering





Provision 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



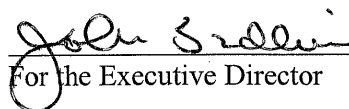
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

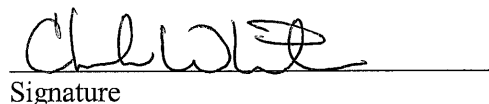
8/29/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

6-3-08  
Date

CHUCK WHITE  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Axtell Water Supply Corporation

Pres.  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

10-10-10

10-10-10

10-10-10